

JEROME C. MURPHY
RICHARD E. CHESNEY
PETER J. VERDIRAME
JOHN F. JANOWSKI
JOHN L. MARSIGLIANO
CHARLES C. NICHOLAS
TARA A. LABELLA
MARTIN K. ROWE
HENRY D. NELKIN
MICHAEL F. PALMERI
GREGORY E. BROWER
RUDOLPH P. PETRUZZI

MARIE I. GOUTZOUNIS
STEPHEN V. MORELLO
MICHAEL JENKS
JOYCE G. BIGELOW*
HAROLD T. BREW
LYNN H. DELISA
CATHERINE J. CARLSON

CHESNEY & MURPHY, LLP
ATTORNEYS AT LAW
2305 GRAND AVENUE
BALDWIN, NEW YORK 11510-3152
(516) 378-1700

FACSIMILE (516) 378-7633

OFFICE MANAGER
PATRICIA M. SCANLON

LEGAL ASSISTANTS
NANCY KBANE
FRANK J. BALCHAITIS
PATRICIA A. MORGAN
EILEEN BRENNAN

Of Counsel
RICHARD B. CHESNEY, Jr.+

*ALSO MEMBER CT BAR
+MEMBER OF PA & FL BARS

EMAIL
email@chesneymurphy.com

July 9, 2008

Via Facsimile: (212) 805-6326

The Honorable Colleen McMahon
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 640
New York, New York 10007-1312

RE: **PARMENTIER v. CITY OF NEW YORK et al.**
08 CV 4039 (CM)
OUR FILE NO.: DMZ 407

Dear Justice McMahon:

I am a partner at the firm of Chesney & Murphy, LLP, located in Baldwin, New York and have just been assigned on this date the defense in this matter on behalf of Duane Reade, Inc. and Mr. Kenneth Castillo. As Your Honor knows, this action has been brought, not only against Duane Reade, Inc. and Mr. Castillo, but also against the City of New York and Police Officer Amanda Kennedy being commenced pursuant to 42 USC §1983 and §1988. In addition to allegations of false arrest and malicious prosecution against the City of New York and the New York City Police Department, plaintiff alleges that the defendant, Castillo also was responsible for the plaintiff's false arrest and false imprisonment as well as her malicious prosecution. Plaintiff further alleges that Mr. Castillo's employer, Duane Reade, Inc., negligently hired, retained, trained and supervised Mr. Castillo thereby being responsible for his actions under the theory of *respondeat superior*.

7/10/08
Request granted
CR

MEMO ENDORSED

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/10/08

The Honorable Colleen McMahon
July 9, 2008
Page 2

The defendants, Duane Reade, Inc. and Mr. Castillo respectfully request an enlargement of its time to answer and/or otherwise respond to the complaint until July 26, 2008. That particular date was selected because a review of the Court records indicate that the defendant, City of New York had written to Your Honor to request an enlargement of its time to answer until that particular date. For the purpose of judicial economy and uniformity, defendants respectfully request that date as well.

The undersigned has contacted the office of plaintiff's counsel to ask for his consent to our request. I was advised by Mr. Carlton of that office that plaintiff's counsel is presently out of the country on vacation and he further advised me that Mr. Ward has lost his cell phone and therefore, was not sure when he would hear from Mr. Ward as to our request. Mr. Carlton did, however, indicate to me that he did not think that Mr. Ward would have a problem with our request.

The defendants apologize to the Court for making this request at such a late date. However, the summons and complaint was served upon a gentleman named Peter Valcourt which, according to the affidavit of service, which is attached hereto for reference, indicates that Mr. Valcourt was a managing agent of Duane Reade, Inc. In fact, according to the Human Resources Department of Duane Reade, Inc., Mr. Valcourt was a mail room clerk and not a managing agent for Duane Reade, Inc. Mr. Valcourt did not have authority to accept service of process on behalf of Duane Reade, Inc. in his job capacity. Additionally, Mr. Valcourt was terminated from Duane Reade's employment approximately six weeks ago. That termination had nothing to do with this particular matter, however, it did add to the delay in responding to the Court papers. Therefore, the defendants, Duane Reade, Inc. and Mr. Castillo, respectfully request the extension of time to enable them to properly investigate the allegations of the complaint and respond to same.

No previous request for an extension of time has been made by these defendants. Accordingly, it is respectfully requested that defendants' time to answer or otherwise respond to the complaint be enlarged until July 26, 2008. Defendants also acknowledge that the initial pre-trial conference scheduled for July 18, 2008 at 10:15 a.m. has been adjourned and is presently scheduled for September 5, 2008 at 9:30 a.m.

Respectfully submitted,


RICHARD A. CHESNEY

REC/ct
Enc.

The Honorable Colleen McMahon
July 9, 2008
Page 3

cc: Via Facsimile (212) 763-5001
Earl S. Ward, Esq.
75 Rockefeller Plaza
20th Floor
New York, New York 10019

FORM C78

1ESW968969 - EARL S. WARD, ESQ

UNITED STATES SOUTHERN DIST. COURT - NEW YORK COUNTY

ELYSE PARMENTIER,

PLAINTIFF

- vs. -

CITY OF NY ET AL,

DEFENDANT

Index No: 08 CIV 4039

Date Filed: 05/06/2008

Office No:

Court Date:

STATE OF NEW YORK, COUNTY OF NEW YORK :SS:

BYRON ROBUSKY being duly sworn, deposes and says:

I am over the age of 18 years, not a party to this action, and reside in the State of New York.

That on 05/13/2008 at 2:43PM at 440 9TH AVENUE 9TH FL, NEW YORK, NY 10001, I served a true copy of the SUMMONS AND COMPLAINT JURY TRIAL DEMAND upon DUANE READE INC the DEFENDANT therein named by delivering to, and leaving personally with PETER VALCOURT, MANAGING AGENT, a true copy of each thereof.

Deponent describes the person served as aforesaid to the best of deponent's ability at the time and circumstances of service as follows:

SEX: MALE

COLOR: BLACK

HAIR: BLACK

APP. AGE: 35

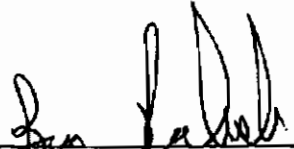
APP. HT: 5'5

APP. WT: 160

OTHER IDENTIFYING FEATURES:

Sworn to before me on 05/15/2008.

HARVEY TAPFER
Notary Public, State of New York
No. 01TA4667012
Qualified in BRONX
Commission Expires 12/31/2010


BYRON ROBUSKY - 867464
AAA ATTORNEY SERVICE CO. OF NY, INC.
20 VESEY ST., ROOM 1110
NEW YORK, NY 10007
ZL